

GAO

Briefing Report to the Chairman and  
Ranking Member, Subcommittee on  
Readiness and Management Support,  
Committee on Armed Services, U.S.  
Senate

June 2001

# EXPORT CONTROLS

## State and Commerce Department License Review Times Are Similar



G A O

Accountability \* Integrity \* Reliability

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<b>Abstract</b> The U.S. defense industry and some U.S. and allied government officials have suggested in recent years that the U.S. export control process be reformed. Much of the debate on reforming the process has focused on the amount of time required to process an export license application. As a result, you asked that we analyze the time it takes to process export license applications. In March 2001, we briefed your staff on the results of our work. As agreed with your staff, we are providing the briefing as a report (see app. I for a discussion of our scope and methodology). As also agreed with your staff, we plan further work to determine why some license applications take significantly longer than the average time to process and will be reporting on this issue in the future. Under the authority of the Arms Export Control Act, 1 the State Department controls the export and import of defense articles and services. The State Departments International Traffic in Arms Regulations provide licensing procedures and define the defense articles and services that require a license in the U.S. Munitions List. 2 The regulations, however, do not mandate or recommend timelines for the review of license applications. The Export Administration Act 3 and Executive Order 12981 grant the Commerce Department authority to review and issue licenses for the export of dual-use commodities (those having both commercial and military applications). The Commerce Departments Export Administration Regulations establish procedures for licensing and define		<b>Monitoring Agency Acronym</b>
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United States General Accounting Office  
Washington, DC 20548

June 1, 2001

The Honorable James M. Inhofe  
Chairman  
The Honorable Daniel Akaka  
Ranking Member  
Subcommittee on Readiness  
and Management Support,  
Committee on Armed Services  
United States Senate

The U.S. defense industry and some U.S. and allied government officials have suggested in recent years that the U.S. export control process be reformed. Much of the debate on reforming the process has focused on the amount of time required to process an export license application. As a result, you asked that we analyze the time it takes to process export license applications. In March 2001, we briefed your staff on the results of our work. As agreed with your staff, we are providing the briefing as a report (see app. I for a discussion of our scope and methodology). As also agreed with your staff, we plan further work to determine why some license applications take significantly longer than the average time to process and will be reporting on this issue in the future.

Under the authority of the Arms Export Control Act,<sup>1</sup> the State Department controls the export and import of defense articles and services. The State Department's International Traffic in Arms Regulations provide licensing procedures and define the defense articles and services that require a license in the U.S. Munitions List.<sup>2</sup> The regulations, however, do not mandate or recommend timelines for the review of license applications.

The Export Administration Act<sup>3</sup> and Executive Order 12981 grant the Commerce Department authority to review and issue licenses for the export of dual-use commodities (those having both commercial and military applications). The Commerce Department's Export Administration Regulations establish procedures for licensing and define

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<sup>1</sup> 22 U.S.C. secs. 2751 et seq.

<sup>2</sup> 22 C.F.R. secs. 120-130.

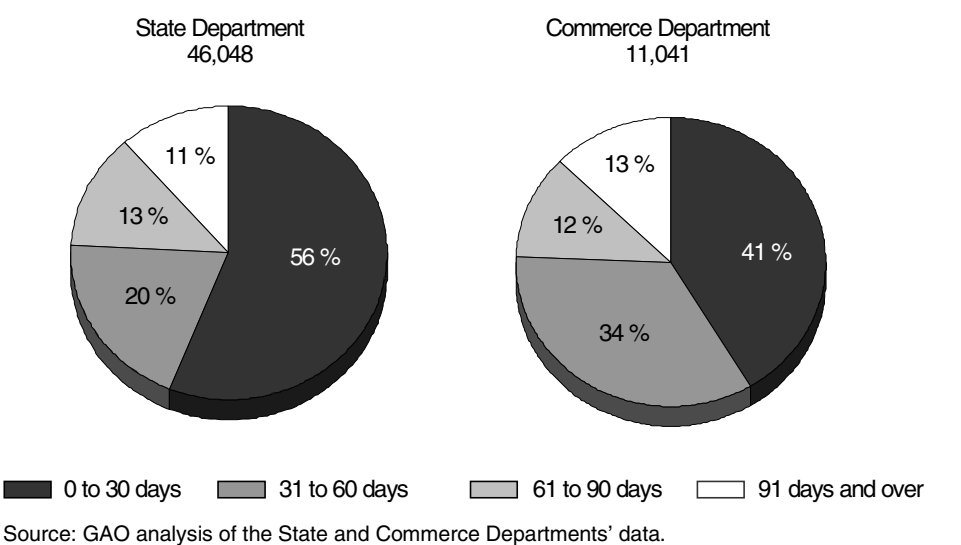
<sup>3</sup> 50 U.S.C. App. secs. 2401 et seq.

items that require an export license in the Commerce Control List.<sup>4</sup> An automated system tracks the time spent reviewing license applications both within the Commerce Department and among other agencies. The executive order mandates specific timelines for the review of dual-use license applications and requires that the Commerce Department refer license applications to other executive branch agencies for review. For example, the Department of Defense reviews applications for national security concerns and the Department of State reviews applications for foreign policy concerns.

Average License Application Processing Time for State and Commerce Is Similar

In fiscal year 2000, the average State Department license application review took 46 days while the average Commerce Department review took 50 days.<sup>5</sup> In that fiscal year, the State Department completed over 46,000 license application reviews and the Commerce Department completed over 11,000. Figure 1 shows the time it took the State and Commerce Departments to process licenses applications in 30-day increments.

Figure 1: State and Commerce Departments' License Processing Time, Fiscal Year 2000



<sup>4</sup> 15 C.F.R. secs. 730-774.

<sup>5</sup> We measured review time as total elapsed calendar time from receipt of a license application to the final action taken.

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The State Department had 23 licensing officers to review license applications in fiscal year 2000. In addition to reviewing license applications, these officers responded to inquiries from other agencies and Congress. The State Department is currently hiring additional licensing officers. The Commerce Department had 51 licensing officers to review license applications in fiscal year 2000. Besides reviewing license applications, these officers process several thousand commodity classification requests and advisory opinions annually and, as at the State Department, Commerce licensing officers are responsible for responding to inquiries from other agencies and from the Congress.

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## Several Variables Affect Processing Time

We examined selected variables to determine their impact on the amount of time needed to process license applications. These included the extent of interagency review, the commodity being exported, the type of license granted, and the country of destination of the planned export.

The interagency review process has a significant effect on the time needed to process a license application at both the State and Commerce Departments. The State Department's Office of Defense Trade Controls processes two-thirds of the license applications it receives without an interagency review. For fiscal year 2000, the State Department took an average of 23 days to reach a decision on these license applications. The other one-third of license applications submitted to the State Department are referred to other agencies through the interagency review process and, in fiscal year 2000, took an average of 91 days before State reached a final decision. For fiscal year 2000, the Commerce Department sent 83 percent of its license applications out for interagency review.<sup>6</sup> These reviews averaged 54 days to reach a final decision, as opposed to an average of 28 days for the 17 percent not referred for interagency review.

The commodity being exported and the type of license being requested had a significant effect on processing time at the State Department. For the State Department, the license applications to export launch vehicles and missiles; military and space electronics; fire control systems, guidance systems and night vision equipment; and space systems and technology

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<sup>6</sup> Executive Order 12981 grants authority for the Departments of State, Defense, and Energy to review any license applications submitted to the Department of Commerce. The order allows these agencies to indicate that they do not wish to review certain types of licenses.

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took the longest to process. License applications for agreements<sup>7</sup> and for temporary export licenses were the license types that took the longest to process. A State Department official said that agreements are generally the most complex cases and temporary exports frequently require interagency review because they are related to marketing efforts for defense articles to a country that does not already have those articles.

For the Commerce Department, the commodity being exported also affected the time taken to process the license application. The Commerce Department's Export Control Automated Support System does not differentiate the time it takes to process different license types. Therefore, we were not able to determine variations in time by license type for Commerce Department applications. License applications to export commodities in the computer, electronics, telecommunications/information security, lasers, and navigation/avionics categories had the longest review times.

In general, the country of destination is not a major differentiating factor when measuring State Department license application processing time, but can be in the Commerce Department process. Seventy-seven percent of fiscal year 2000 license applications submitted to the State Department for North Atlantic Treaty Organization (NATO) countries and 75 percent of license applications for non-NATO countries were completed within 60 days. State Department officials stated that the lack of variation in processing time for applications to export to NATO versus non-NATO countries can be explained by the fact that non-NATO countries to which we export munitions list items are generally our allies, for example, Japan or Australia. Therefore, as a group these countries have a relationship to the United States that is similar to that of our NATO allies. On the other hand, the Commerce Department's restrictions for NATO countries are not as stringent as for non-NATO countries. Furthermore, many of the license applications received by the Commerce Department are for licenses to export to countries that are not our allies and may in some cases be considered countries of concern. For fiscal year 2000, nearly 90 percent of license applications for exports to NATO countries were completed in

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<sup>7</sup> Agreements include manufacturing license agreements that allow a U.S. person to grant a foreign person an authorization to manufacture defense articles abroad; technical assistance agreements that permit the performance of defense services or the disclosure of technical data; and distribution agreements that allow the establishment of a warehouse or distribution point abroad for defense articles exported from the United States for distribution to entities in an approved sales territory.

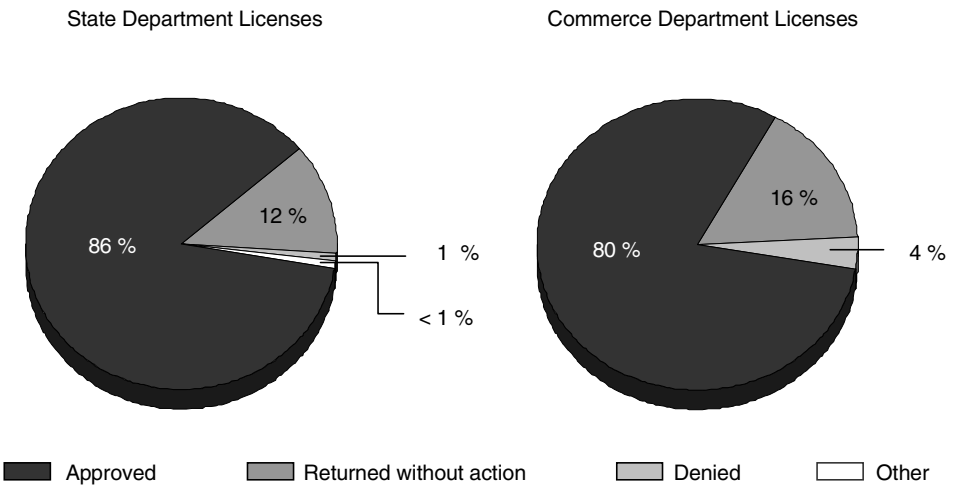


60 days; in contrast, only 73 percent of applications to export to non-NATO countries were completed in 60 days.

Final Dispositions of License Applications by State and Commerce Are Similar

The results of license application reviews are generally similar for State and Commerce. Figure 2 shows the final actions associated with the State and Commerce Departments' license application reviews for fiscal year 2000. Over 80 percent of license applications at both Departments were approved. However, of the 86 percent of applications that were approved by State Department for fiscal year 2000, about one-third were approved with conditions that limited the use of the exported item. Nearly all of the fiscal year 2000 Commerce Department license application were approved with conditions.

Figure 2: Final Action of State and Commerce Departments' Licenses, Fiscal Year 2000



Source: GAO analysis of the State and Commerce Departments' data.

Agency Comments

In commenting on a draft of this report the State Department said that the report demonstrates that the U.S. government munitions control system is relatively efficient and responsive. State also commented that they have supplemented their staff and their processing time has been reduced. The data presented in this report provides information on the length of time taken for license application reviews and some insight into reasons why some reviews take longer than others. We do not believe the data is a sufficient basis for conclusions on the efficiency of the munitions export license control system. While the report shows that many licenses are

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processed quickly, the report also shows that over 5,200 license applications took over 90 days to review in fiscal year 2000. The causes for long review times vary, and we have begun an assessment to determine why these reviews take so long.

In commenting on a draft of the report, the Department of Commerce expressed a strong belief that comparing the number of license applications the Commerce and State Departments each process and the time each Department takes to process license applications can invite readers to draw erroneous conclusions about the two processes. We believe this report accurately describes the Commerce and State Departments' processes for reviewing license applications. While the report shows that overall processing time is similar between the two systems, the report also describes additional factors. For example, about two-thirds of State Department license applications are reviewed internally while the Commerce Department sends most applications out for interagency review as authorized by Executive Order 12981.

Commerce also objected to our use of calendar days when calculating license application processing time. The Commerce Department believes that we should exclude federal holidays, weekends, and the time Commerce is permitted to hold an application without action as prescribed in Executive Order 12981. The Executive Order and the Export Administration Regulations both reference calendar days and do not exclude weekends and federal holidays. We note in our report that the results of our analysis may differ from Commerce's because we use calendar days.

Commerce also commented that it is misleading to compare their calendar time with the State Department's because State does not hold applications so that applicants can provide additional information when it is needed in the review of an application. Commerce is not correct. State and Defense Department officials told us that both State licensing officers and Defense license reviewers hold munitions license applications while awaiting additional information from the applicant. However, the State Department does not have a process to track licenses when they are held without action, and as a result, we were not able to compare the time licenses are held at both the State and Commerce Departments.

The Commerce Department provided additional comments on factors that they believe underlie the results of our analysis. We did not address these because they were beyond the scope of our review.

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The State and Commerce Departments' comments in full are included in Appendix II and III.

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As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issuance. At that time, we will send copies to Senator Jesse Helms, Chairman, Committee on Foreign Relations; Senator Joseph Biden, Ranking Member, Committee on Foreign Relations; Senator Phil Gramm, Chairman, Committee on Banking, Housing, and Urban Affairs; Senator Paul Sarbanes, Ranking Member, Committee on Banking, Housing, and Urban Affairs; Representative Henry Hyde, Chairman, Committee on International Relations; Representative Tom Lantos, Ranking Minority Member, Committee on International Relations; Representative Bob Stump, Chairman, Committee on Armed Services; and Representative Ike Skelton, Ranking Minority Member, Committee on Armed Services. We will also send copies to the Honorable Colin L. Powell, Secretary of State; the Honorable Donald L. Evans, Secretary of Commerce; the Honorable Donald H. Rumsfeld, Secretary of Defense; and the Honorable Mitchell E. Daniels, Jr., Director, Office of Management and Budget. This report will also be made available on GAO's home page <http://www.gao.gov>.

If you or your staff have questions concerning this report, please contact me at (202) 512-4841. Others making key contributions to this report were Blake Ainsworth, Raymond H. Denmark, Thomas J. Denomme, Minette D. Richardson, and John P. Ting.

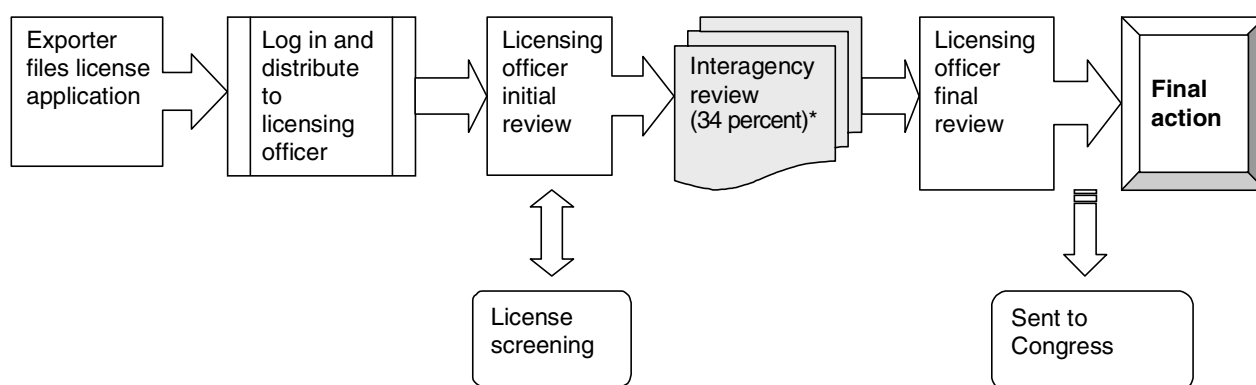


Katherine V. Schinasi  
Director, Acquisition and Sourcing Management

# Briefing Section I: State Department Export Licensing Process and Timing



## State Department License Process



\*During FY 2000, 66 percent of license applications reached final action without interagency review.

The State Department's approval authority for export licenses is established in the Arms Export Control Act. Specific licensing procedures are explained in the International Traffic in Arms Regulation. Companies that manufacture defense articles or provide defense services are required to register with the State Department's Office of Defense Trade Controls. An exporter may file a license application with the Office of Defense Trade Controls either electronically or in hard-copy. Applications are assigned a number and logged into the Office's database.

Logged-in applications are assigned to licensing officers for initial review according to the munitions categories. For example, munitions categories include firearms, aircraft, ammunition, and spacecraft systems. During this initial review, licensing officers decide whether an application needs to be reviewed by other agencies, such as the Defense Department or other State Department bureaus.<sup>1</sup> The names of the parties involved in the application are also screened against a watch list of parties about whom concerns have been raised to determine if more intensive reviews are necessary. If an application is not referred to another agency for review, the licensing officer can decide on the disposition of the application.

When agencies complete their review, they send their recommendation to the Office of Defense Trade Controls. The State Department process does not contain timelines for other agency reviews. The Defense Department, however, instituted an internal requirement in October 1999 to complete and return the results of its reviews within 31 days. When the Office of Defense Trade Controls has received a response from all the agencies asked to review the application, the file is returned to the licensing officer for final review and disposition.

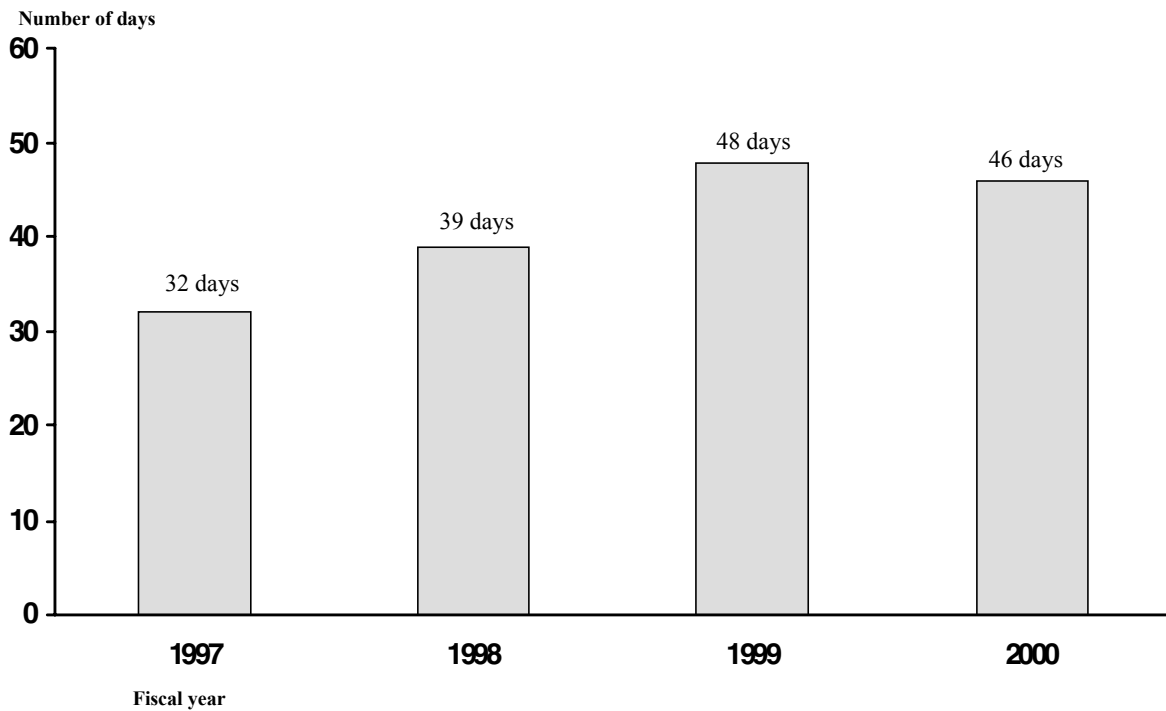
The State Department must notify Congress prior to approving applications that involve exports of defense articles and services valued over \$50 million or exports of major defense equipment valued over \$14 million. Several offices within the State Department must review the congressional notification paperwork prior to its submission to Congress. Notifications are only delivered when Congress is in session. After notifying Congress, the State Department must wait 15 days if the country is a NATO ally or 30 days for other countries. If Congress has no objection within the waiting period, the Office of Defense Trade Controls can approve the export license. In fiscal year 2000, about 120 applications were sent to Congress. The processing time for these applications ranged from 54 to 847 days.

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<sup>1</sup> Since the license reviews conducted by other State Department offices and bureaus are external to the office of Defense Trade Controls, we categorized these reviews by these offices and bureaus as part of the interagency review process.



## State Department Cases, Average Review Times, FY 1997-2000



Source: GAO analysis of State Department data.

Average munitions license processing time increased from 32 days in fiscal year 1997 to 48 days in fiscal year 1999; but it improved to 46 days in fiscal year 2000. The median processing time, the point at which 50 percent of the cases took more time and 50 percent less time, was 25 days for fiscal year 2000.<sup>1</sup> State Department officials explained that several factors contributed to the increased time including the Office of Defense Trade Controls' loss of several experienced licensing officers, an increase in the number of license agreement applications that generally require more review time, and the transfer of licensing jurisdiction over commercial satellites from the Commerce Department to the State Department in March 1999. The improvement in fiscal year 2000 may be the result of the Defense Department's reform of its license review process. This reform took effect in October 1999 and imposed an internal Defense Department deadline of 31 days to review and return license applications unless an extension is granted.

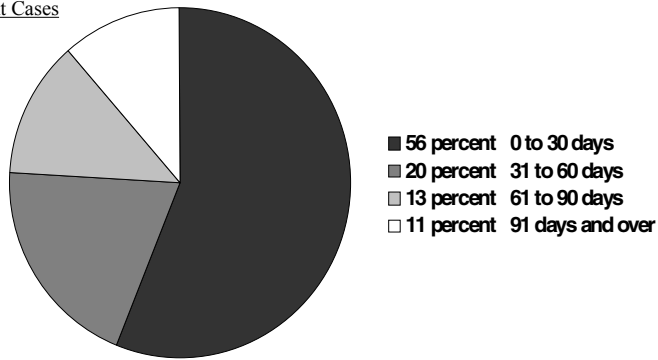
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<sup>1</sup> We are reporting the median processing time because the average processing time can be significantly affected by a small number of license applications that had much longer review times than the majority of applications.



**State Department Cases,  
Review Time, FY 2000**

State Department Cases  
46,048



Source: GAO analysis of State Department data.



**State Department Cases,  
Review Time, FY 1997-2000**

	0 to 30 days	31 to 60 days	61 to 90 days	91 plus days	Total
FY 1997	30,538	6,552	3,718	3,060	43,868
FY 1998	27,532	7,036	4,443	4,563	43,574
FY 1999	24,427	7,909	5,107	6,595	44,038
FY 2000	25,865	9,074	5,864	5,245	46,048

Source: GAO analysis of State Department data.



Applications that took over 60 days have increased from about 15 percent of the total in fiscal year 1997 to about 24 percent of the total in fiscal year 2000. The number of applications over 60 days increased by 4,331 from 6,778 applications in fiscal year 1997 to 11,109 applications in fiscal year 2000, while those under 60 days decreased.

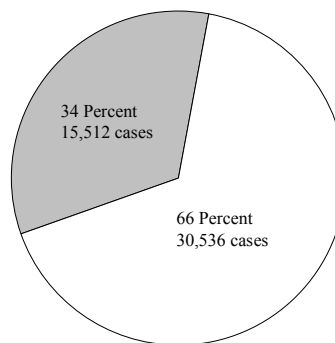
**Briefing Section I: State Department Export  
Licensing Process and Timing**



**State Department Cases, Referred and  
Not Referred to Other Agencies, FY 2000**

**Referred**

- Days to reach a decision
- 91 days average
  - 69 days median



**Not referred**

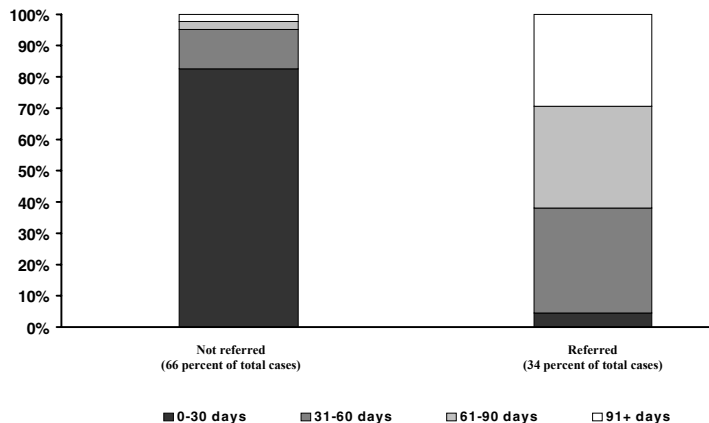
- Days to reach a decision
- 23 days average
  - 15 days median

■ Referred      □ Not referred

Source: GAO analysis of State Department data.



**State Department Cases, Referred and Not  
Referred to Other Agencies, Review Time, FY 2000**



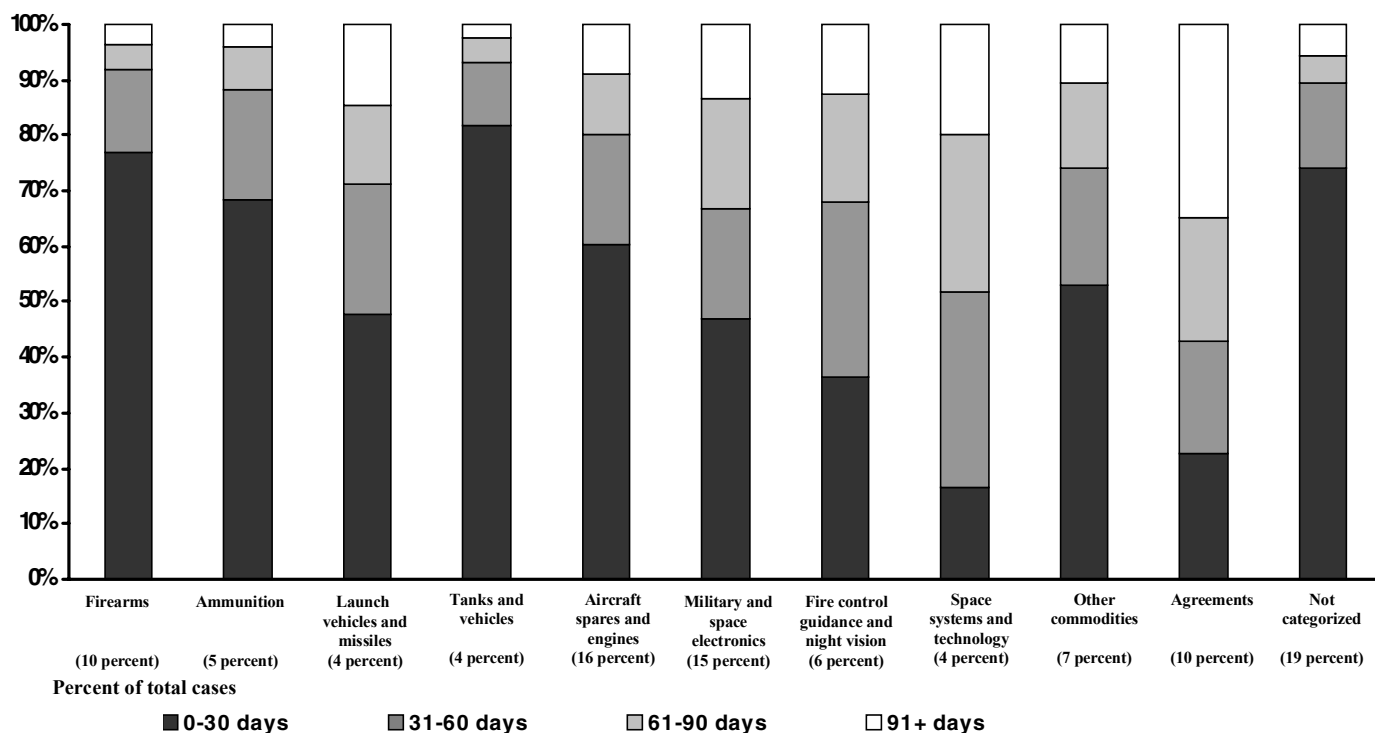
Source: GAO analysis of State Department data.

In fiscal year 2000, the State Department referred about one-third of the license applications to other organizations such as the Defense Department or other State Department bureaus for in-depth technical or policy reviews. Licensing officers rely on a State Department country policy handbook, their own experience, and certain “rules of thumb” to help determine which applications need an outside review. Under these “rules of thumb,” applications for license agreements and applications involving new weapon systems are always sent for review.

The processing time for applications not referred to other organizations averages 23 days with a median time of 15 days. The processing time for licenses referred to other organizations averages 91 days with a median time of 69 days. Applications not referred to other organizations are generally completed within 30 days. In contrast, only 4 percent of applications referred to other organizations are completed within 30 days. In fiscal year 2000, 695 of 30,536 applications not referred to other organizations, or 2 percent, took over 90 days. In contrast, 4,550 of a total 15,512 application sent to other organizations, or 29 percent, took over 90 days.



## State Department Cases, Review Time by Commodity, FY 2000



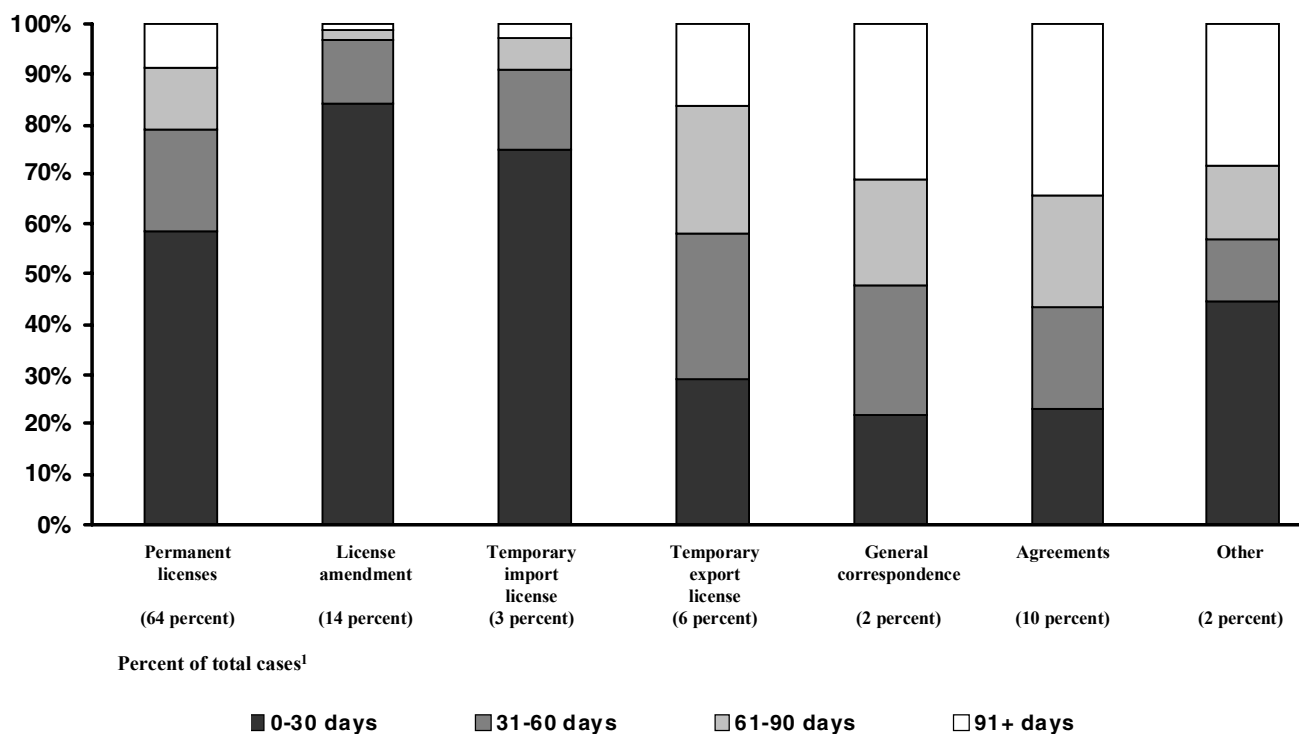
Source: GAO analysis of State Department data.

The United States Munitions List has 19 categories of items. The eight largest categories are listed in this chart and account for 64 percent of applications. In addition, 10 percent of all license applications in fiscal year 2000 were for license agreements and 19 percent of license applications were not categorized. The other 11 categories, which represent 7 percent of license applications, include artillery projectors; concealment and deception equipment; classified articles, technical data, and defense services; explosives and propellants; military training equipment; miscellaneous articles; nuclear weapons design and test equipment; protective personnel equipment; submersible vessels; toxicologist agents; and vessels of war.

Seventy-seven percent of firearm applications, 69 percent of ammunition applications, 82 percent of tank and vehicle applications, and 60 percent of aircraft, spare parts and engine applications were completed within 30 days. The categories that took the longest to review were launch vehicles and missiles; military and space electronics; fire control systems, guidance systems, and night vision equipment; and space systems and technology.



## State Department Cases by License Type, Review Time, FY 2000



<sup>1</sup>Due to rounding, the total number of cases does not equal 100 percent.

Source: GAO analysis of State Department data.

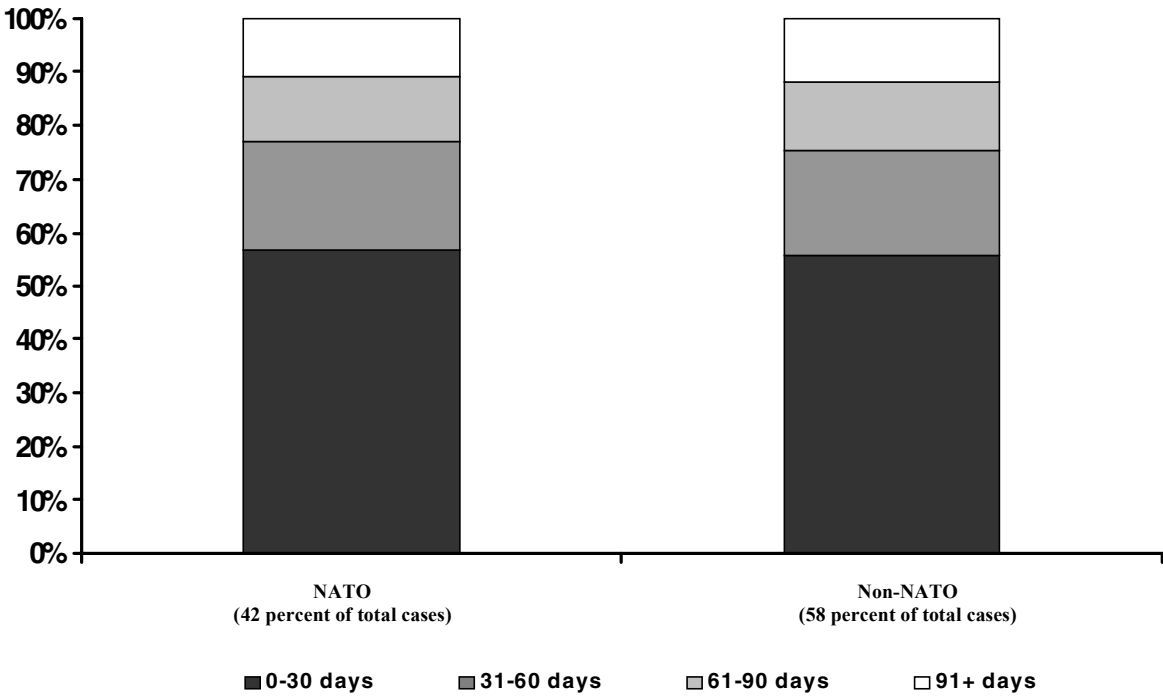
The State Department issues a variety of license types. These include permanent licenses for munitions items, temporary licenses for both munitions imports and exports, and license agreements between U.S. industry and foreign entities to provide technical assistance or manufacturing capability.

Fifty-eight percent of permanent license applications took less than 30 days, 84 percent of amendments to existing licenses took less than 30 days, and 75 percent of temporary import licenses took less than 30 days. On the other hand, only 29 percent of temporary export license applications and 23 percent of license agreements took less than 30 days. A State Department official explained that license agreements are complex, require substantial work by the licensing officers, and often require an interagency review. The official also said that temporary exports require review because they are related to marketing efforts for defense articles to a country that does not already have these articles. The number of agreements has risen from 2,681 in fiscal year 1997, to 4,604 in fiscal year 2000. In fiscal year 2000, agreements were 10 percent of all license applications and 57 percent of agreement reviews took over 60 days.

General correspondence cases, which accounted for 2 percent of the fiscal year 2000 license applications, mirrored the review times experienced with agreements. State Department data shows that 52 percent of these cases took over 60 days. State Department officials told us that general correspondence submissions are difficult for the licensing staff, because correspondence seeks clarification on licenses, advisory opinions prior to license applications, or permission for an item transfer from one country to another.



State Department Cases,  
NATO/Non-NATO Review Time, FY 2000



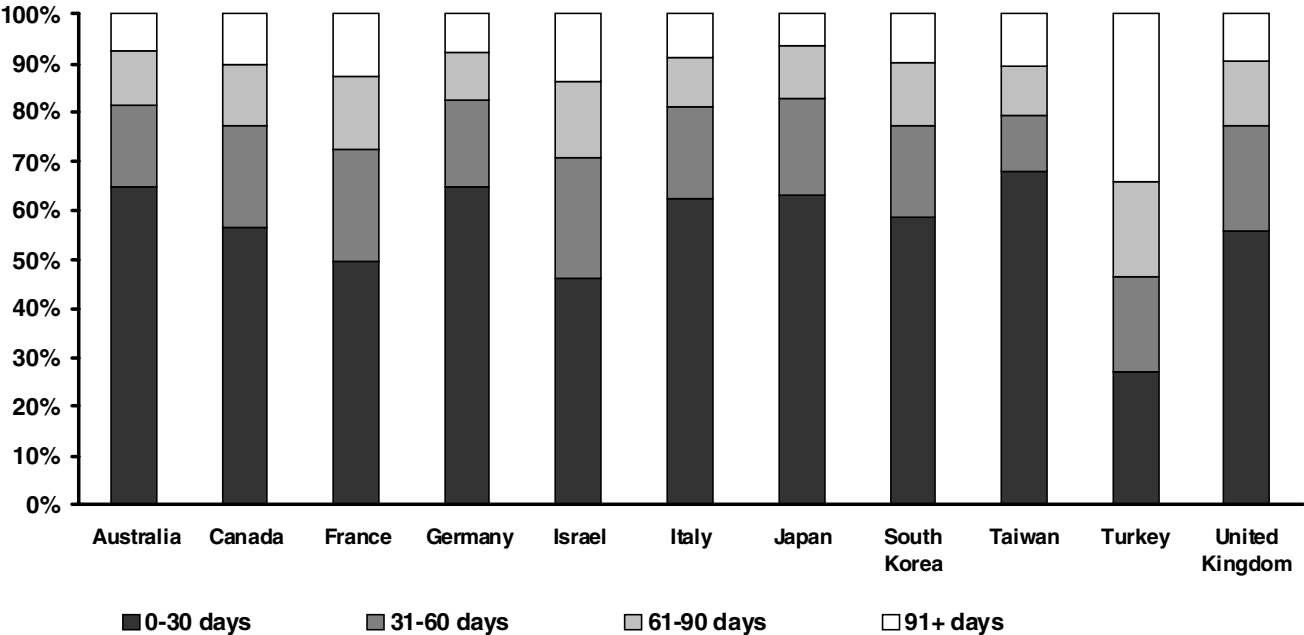
Source: GAO analysis of State Department data.



The processing time for North Atlantic Treaty Organization (NATO) member countries is similar to the time for non-NATO members. In discussing the similarity of times for items exported to NATO versus non-NATO countries, State Department officials explained that the lack of variation in processing time for applications to export to NATO versus non-NATO countries can be explained by the fact that non-NATO countries to which we export munitions list items are generally our allies, for example, Japan or Australia. Therefore, as a group these countries have a relationship to the United States that is similar to that of our NATO allies. As a result, the type of item or whether an agreement is involved has a more significant effect on the time needed to process a license application than the country of destination.



State Department Cases, Recipient Countries with  
Over 1,000 License Cases, Review Time, FY 2000



Source: GAO analysis of State Department data.

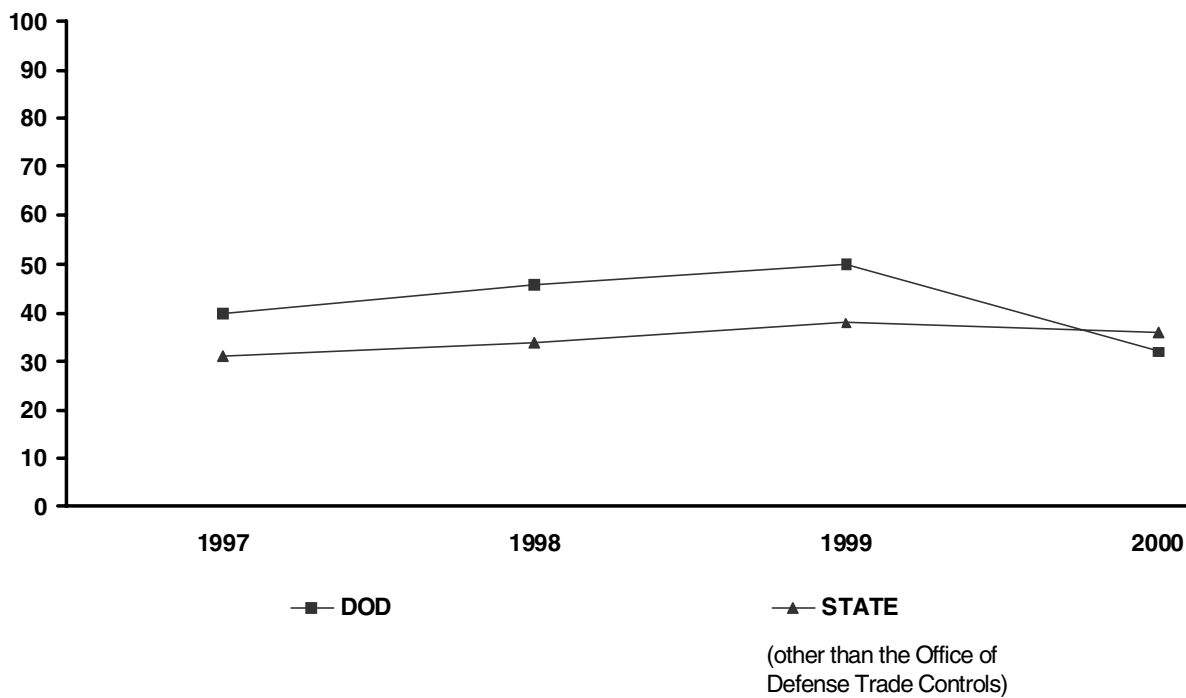
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State received over 1,000 license applications for each of eleven countries. These countries represented 58 percent of all applications processed in fiscal year 2000.



## State Department Cases, Average Agency Review Time for FY 1997-2000

Number of Days



Source: GAO analysis of State Department data.

Referrals to other agencies account for significant additional time. The length of interagency reviews has varied from fiscal years 1997 through 2000.

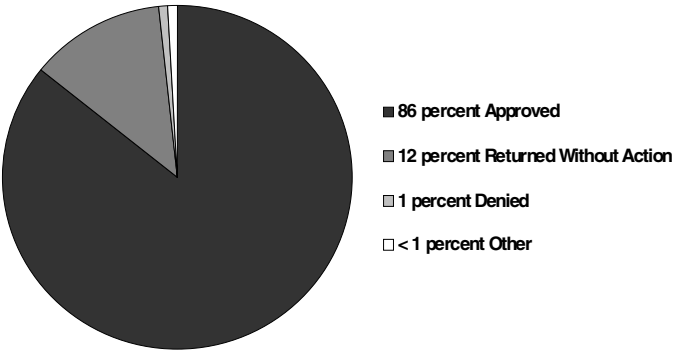
- In fiscal year 2000, the Defense Department's average review time was 32 days and the median was 29 days. Defense Department annual license reviews for fiscal years 1997 through 2000 ranged from a low of 11,235 to a high of 14,295.
- In fiscal year 2000, the State Department's average review time was 36 days and the median was 24 days. State Department bureaus and offices annual license reviews for fiscal years 1997 through 2000 ranged from a low of 11,097 to a high of 13,628. This does not include reviews within the Office of Defense Trade Controls since that Office is the licensing authority.

Beginning in fiscal year 2000, the Defense Department began tracking the time needed to review license applications and has established deadlines for completing their reviews. The Defense Department's average processing time dropped from 50 days in fiscal year 1999 to 32 days in fiscal year 2000.

Other agencies that review State Department license applications include the Departments of Commerce and Energy, the National Aeronautics and Space Administration, the Missile Technology Export Control Group, the National Security Council, and the U.S. Customs Service.



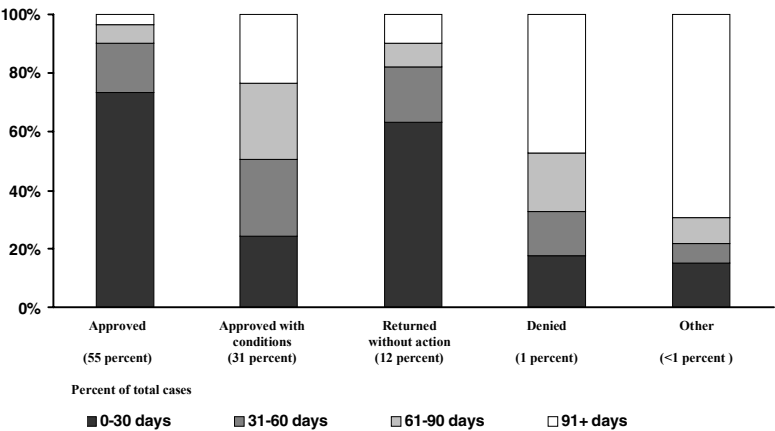
State Department Cases,  
Final Action, FY 2000



Source: GAO analysis of State Department data.



State Department Cases by Final Action,  
Review Time, FY 2000



Source: GAO analysis of State Department data.

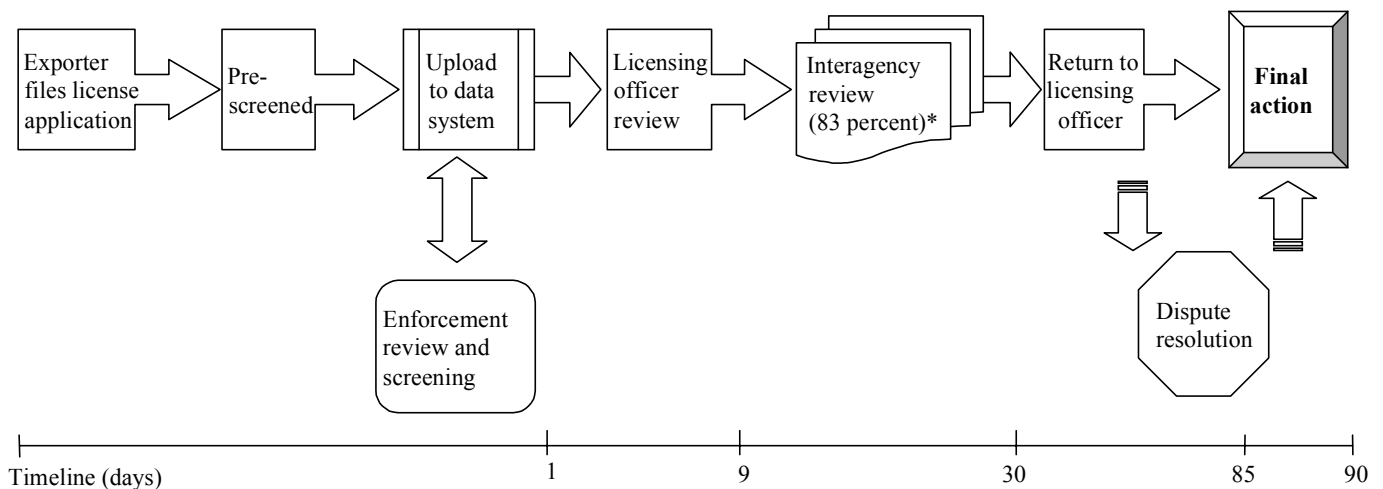
In fiscal year 2000, the Office of Defense Trade Controls approved 86 percent of license applications. Fifty-five percent of the applications were approved with no conditions; 31 percent were approved with conditions that limit the use of the exported items; 12 percent were returned without action; and 1 percent were denied. The remainder of these applications were withdrawn, lost, or were requests to determine whether State or Commerce had jurisdiction. Returning the application without action allows the applicant to re-apply when certain conditions are met or when circumstances change.

Nearly three-quarters of approvals without conditions were completed within 30 days, and about half of the approvals with conditions took over 60 days. Further, while denied, lost, withdrawn, and commodity jurisdiction applications are 2 percent of total license applications, they represent 9 percent of the applications that took over 90 days.

# Briefing Section II: Commerce Department Export Licensing Process and Timing



## Commerce Department License Process



\*During FY 2000, 17 percent of license applications reached final action without interagency review.



The Commerce Department process for reviewing license applications to export Commerce Control List commodities is governed by Executive Order 12981 dated December 5, 1995. The Executive Order established clear process deadlines. For example, agencies have 30 days to review license applications and the entire license review process must be complete in 90 days. Exporters use the Export Administration Regulations and the Commerce Control List to determine whether a license application is needed, and if they are unsure, consult with the Commerce Department. Exporters submit license applications either in hard copy or in electronic form. About 60 percent of applications are submitted electronically. Hardcopy submissions are manually screened for completeness and scanned into the Export Control Automated Support System. Supporting documentation is submitted and distributed in hardcopy. In most cases, the system automatically assigns the application to a licensing officer.

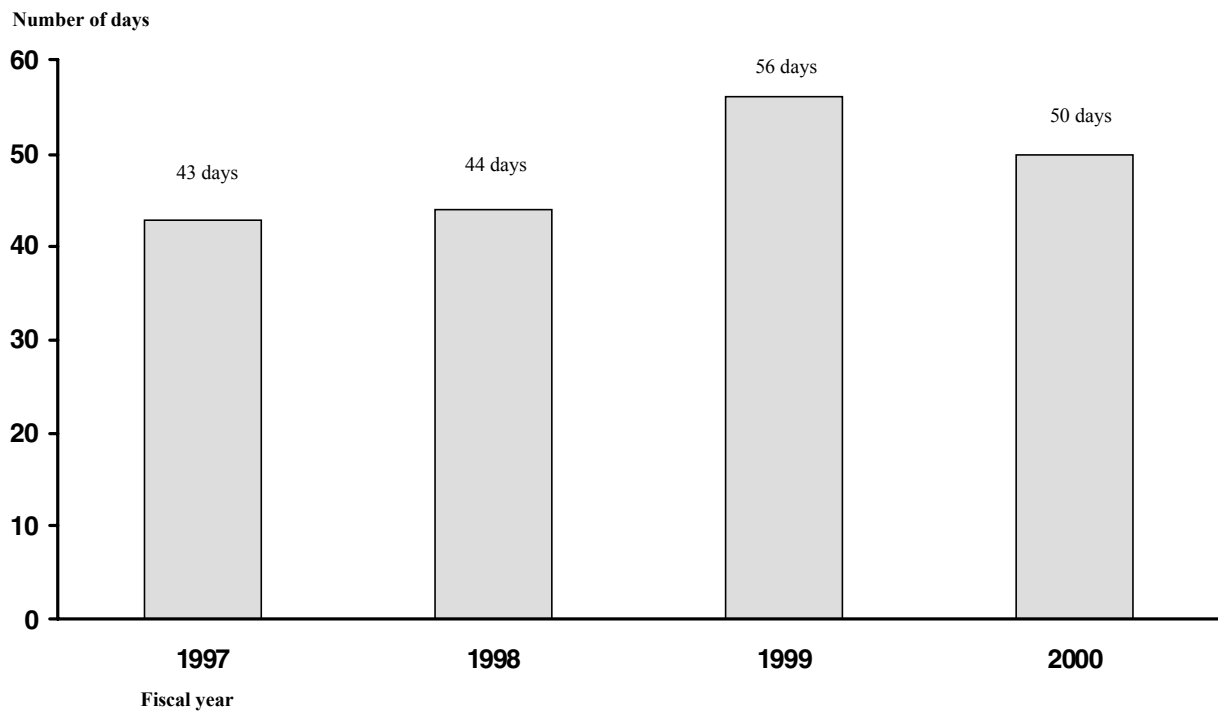
Once an application is entered into the data system, it is considered “registered” and the timing mechanism mandated by the executive order is activated. Within 9 days of the registration date, the licensing officer determines a Commerce position. The application is either referred for interagency review (83 percent) or sent for final Commerce Department review. The 17 percent decided without referral to other agencies are approved, denied, or returned to the applicant without action either for additional information or because a license was not required.

The Commerce Department data system sends license applications electronically to referral agencies. If agencies do not provide the Commerce Department with a recommendation within 30 days, the Commerce Department proceeds as if the agency agreed with the initial Commerce Department position. Following the agencies’ review, the licensing officer takes final action on the application. However, a single agency disagreement with the Commerce position will escalate the review to a higher level multi-agency dispute committee for resolution.

Although the Executive Order requires that the entire process be completed in 90 days, it allows the review “clock” to be stopped at certain points. For instance, the “clock” can be stopped when the Commerce Department or other agencies need additional information from the applicant. Our analysis of Commerce Department data reflects calendar days, which includes the time during which the Department stops the clock.



## Commerce Department Cases, Average Review Times, FY 1997-2000



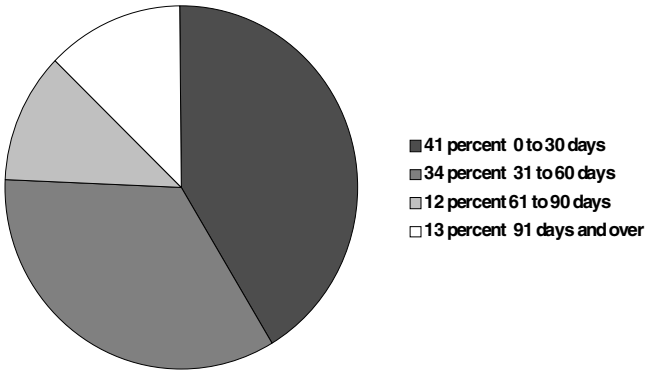
Source: GAO analysis of Commerce Department data.

The average Commerce Control List license application review time increased from 43 days in fiscal year 1997 to 56 days in fiscal year 1999. The median processing time for fiscal year 2000 was 36 days. Fiscal year 1999 was a year that included embargoes against India and Pakistan as well as controversy over satellite exports to China. According to Commerce officials, these events delayed license reviews and explain, at least in part, the increased average review time. Average review time improved to 50 days in fiscal year 2000.



Commerce Department Cases,  
Review Time, FY 2000

Commerce Department Cases  
11,041



Source: GAO analysis of Commerce Department data.



Commerce Department Cases,  
Review Time, FY 1997-2000

	0 to 30 days	31 to 60 days	61 to 90 days	91 plus days	Total
FY 1997	4,421	4,458	926	738	10,543
FY 1998	4,550	4,377	1,165	912	11,004
FY 1999	4,364	4,836	1,455	1,913	12,568
FY 2000	4,575	3,754	1,312	1,400	11,041

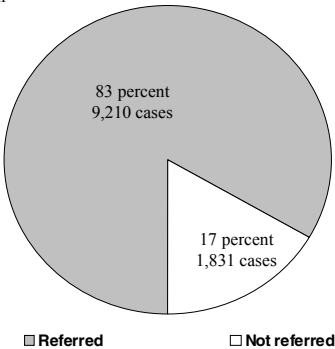
Source: GAO analysis of Commerce Department data.

License applications that took over 60 days to review have increased from about 16 percent of the total in fiscal year 1997 to about 25 percent of the total in fiscal year 2000. The number of applications over 60 days increased by 1,048 from 1,664 applications in fiscal year 1997 to 2,712 applications in fiscal year 2000.



Commerce Department Cases, Referred and Not Referred to Other Agencies, FY 2000

**Referred**  
Days to reach a decision  
• 54 days average  
• 40 days median

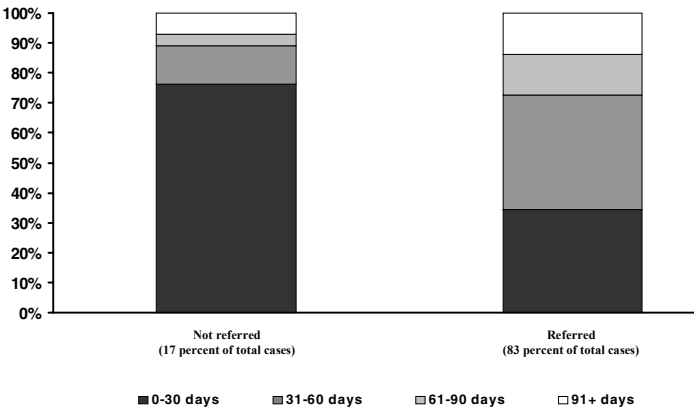


**Not Referred**  
Days to reach a decision  
• 28 days average  
• 13 days median

Source: GAO analysis of Commerce Department data.



Commerce Department Cases, Referred and Not Referred to Other Agencies, Review Time, FY 2000



Source: GAO analysis of Commerce Department data.

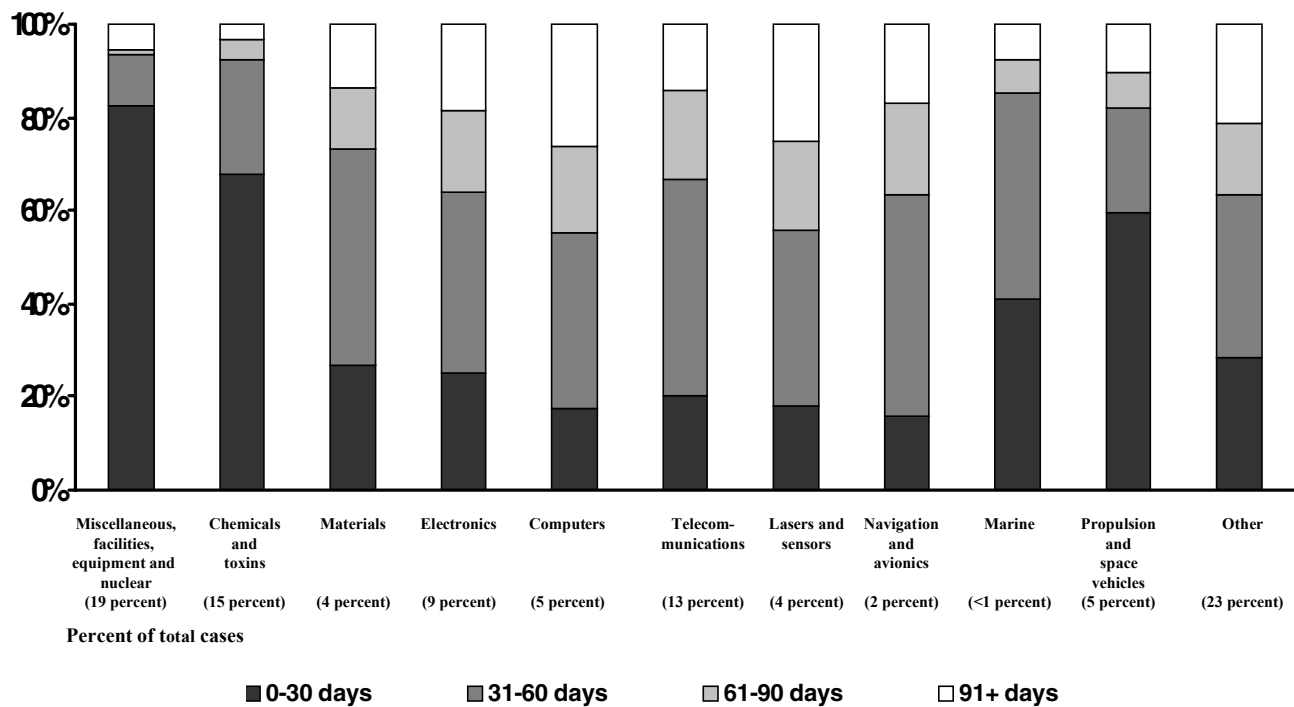
Executive Order 12981 grants authority for the Departments of State, Defense, and Energy to review all license applications submitted to the Department of Commerce. These agencies are concerned with applications involving national security, missile technology, and nuclear, chemical and biological weapons proliferation. The order, however, allows these agencies to indicate to the Commerce Department that they do not wish to review certain types of licenses. Eighty-three percent of license applications were referred to other agencies in fiscal year 2000.

The review time for applications not referred to other agencies averaged 28 days with a median time of 13 days. Review time for license applications referred to other agencies averaged 54 days with a median time of 40 days.

Seventy-six percent of Commerce Control List license applications that were not referred to other agencies for review were completed within 30 days. However, nearly half of those licenses were returned to the applicant without action. During the nine days in which the Commerce Department licensing officer initially reviews the application, the officer may request additional information from the exporter. According to Commerce Department officials, exporters have up to 20 days to provide the additional information. If the exporter does not respond within the 20-day timeframe, the licensing officer returns the license to the exporter without action. Commerce Department officials told us that most returned applications were sent back because exporters failed to provide additional information. In addition, officials told us that applications may also be returned to exporters without action because licensing officers discover during their initial analysis that an export license is not required.



Commerce Department Cases,  
Review Time by Commodity, FY 2000



Source: GAO analysis of Commerce Department data.



The Export Administration Regulations classify Commerce Control List commodities according to 10 categories. In addition, there is a generic commodity classification for items that do not fall under one of the 10 categories but are subject to Export Administration Regulations controls for other reasons. Those items with the generic classification are identified in the chart as “other.”<sup>1</sup>

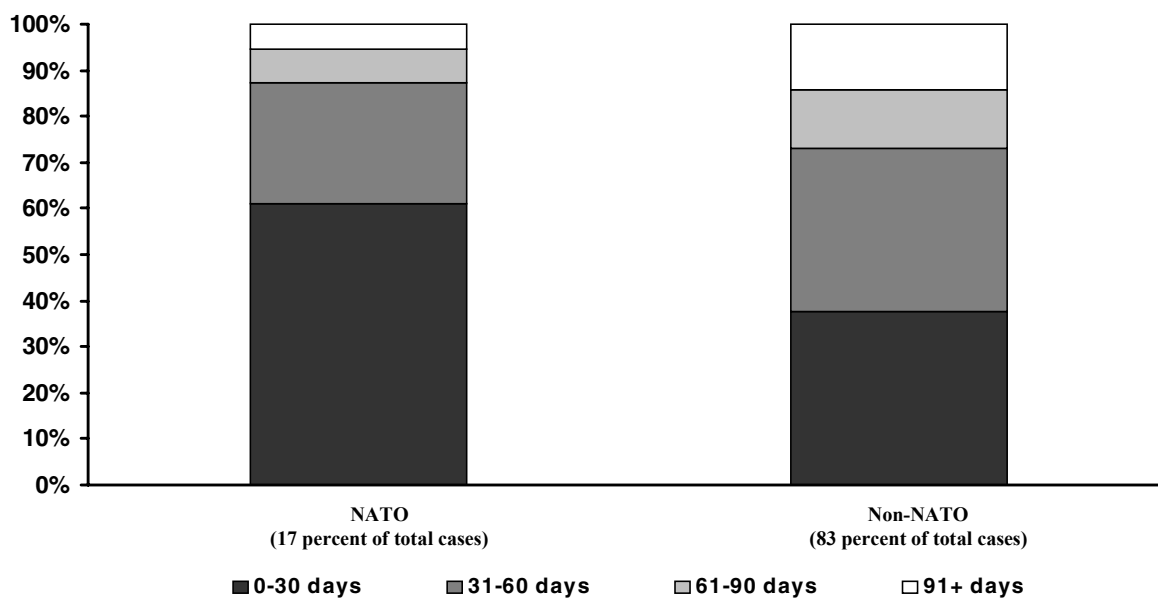
Eighty-three percent of nuclear materials, facilities, equipment and miscellaneous; 68 percent of materials, chemicals microorganisms and toxins; 60 percent of propulsion systems, space vehicles, and related equipment; and 41 percent of marine applications were completed within 30 days. The categories that took the longest to review were materials processing; computers; electronics; telecommunications/information security; lasers; navigation/avionics; and “other.”

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<sup>1</sup> License applications may include multiple, usually related, commodities. Applications with disparate commodities may be referred for review to more than one Commerce Department commodity control office.



## Commerce Department Cases, NATO/Non-NATO Review Time, FY 2000

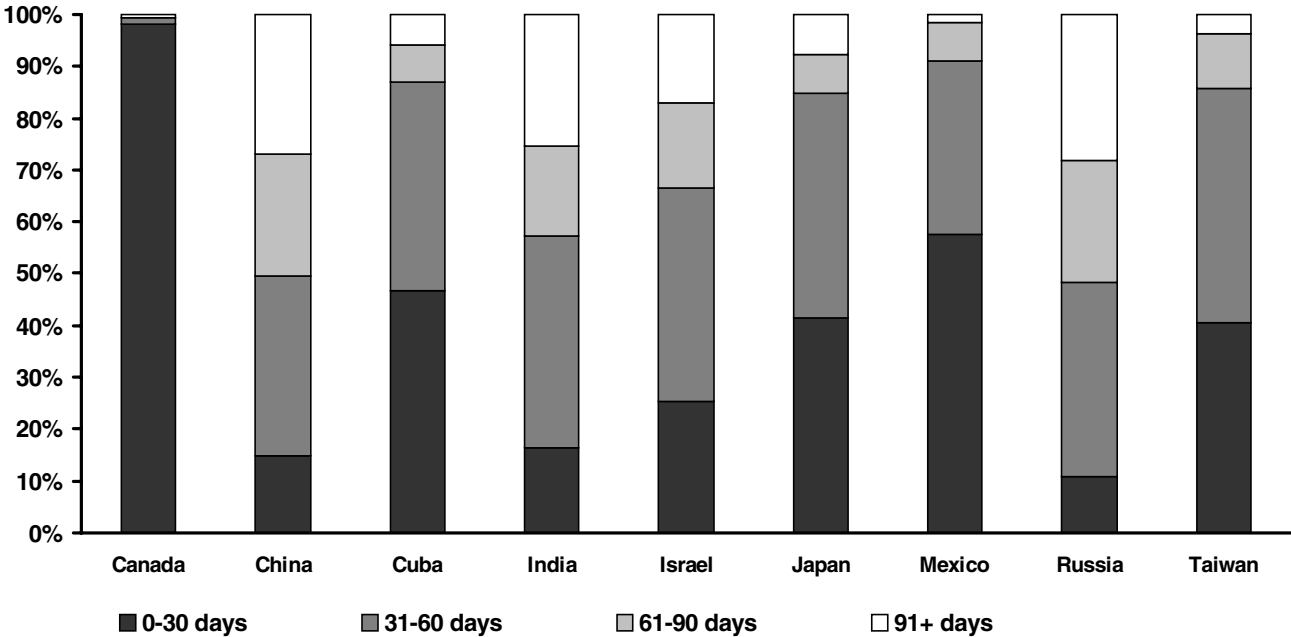


Source: GAO analysis of Commerce Department data.

License applications for exports to NATO countries tend to be reviewed faster than applications for exports to non-NATO countries. Sixty-one percent of applications for exports to NATO countries were completed within 30 days and nearly 90 percent were completed within 60 days. Thirty-eight percent of applications for exports to non-NATO countries were completed in 30 days and 73 percent were completed within 60 days.



Commerce Department Cases, Recipient Countries  
With Over 300 license Cases, Review Time, FY 2000



Source: GAO analysis of Commerce Department data.

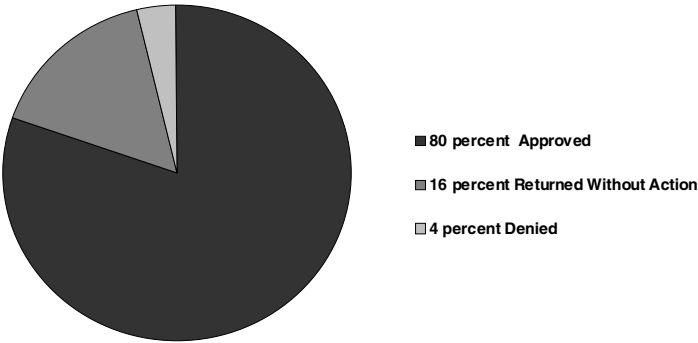
Commerce received over 300 license applications for each of nine countries. These countries represented 52 percent of all applications processed in fiscal year 2000. License applications for exports to Canada had the shortest review times. About 98 percent of all license applications for exports to Canada were reviewed and completed within 30 days.

India and China accounted for nearly half of the Commerce Control List export licenses that took more than 90 days to review. India was sanctioned during fiscal year 1999 for its nuclear weapons activities. As a result, the Commerce Department adopted a policy of denying exports and reexports of items controlled for nuclear and missile technology reasons to India. Those sanctions continued through fiscal year 2000 and may have contributed to the lengthy review times for exports to India.

On the other hand, the majority of licenses for exports to Cuba are reviewed within 60 days. Cuba is an embargoed destination as defined by Export Administration Regulations. This means that all items on the Commerce Control List require a license for export to Cuba. In addition, most other items subject to the Export Administration Regulations but not on the Commerce Control List also require a license for export to Cuba. During fiscal year 2000, 95 percent of commodities licensed for export to Cuba were items that were not on the Commerce Control List but were subject to the Export Administration Regulations. A great many of those items were medical supplies. During fiscal year 2000, the Commerce Department reviewed 340 license applications for exports to Cuba. Commerce completed 87 percent of these reviews in less than 60 days.



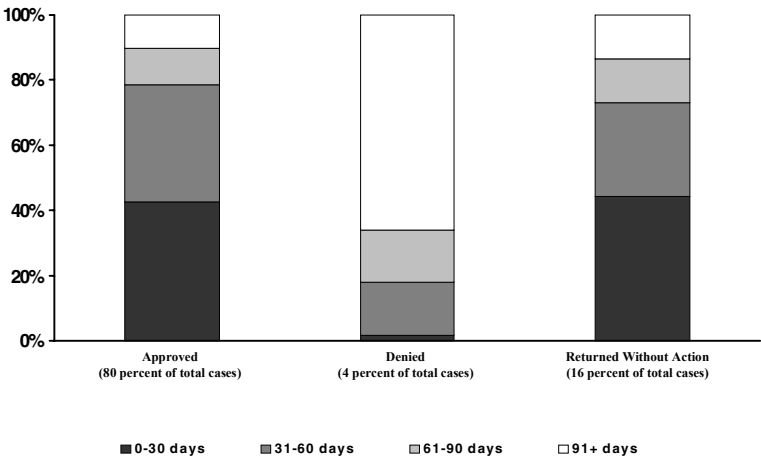
Commerce Department Cases,  
Final Action, FY 2000



Source: GAO analysis of Commerce Department data.



Commerce Department Cases,  
Review Time by Final Action, Review Time, FY 2000



Source: GAO analysis of Commerce Department data.

The majority of Commerce Control List license applications are approved. As the chart shows, 80 percent of licenses were approved during fiscal year 2000. Of the licenses that were approved, all but three carried conditions to be met for approval. The Commerce Department system has 48 standard conditions that may be applied to each license as warranted and has a provision for additional conditions that licensing officers may apply. For example, 1 of these 48 standard conditions states that resale, transfer, or reexport of items listed on a license is not authorized without prior authorization by the U.S. government. Another standard condition requires that items be made available for periodic on-site inspection.

While most approvals and returns without action were completed in 60 days or less, two-thirds of denials, about 4 percent of all Commerce Control List license applications, took over 90 days to complete. Only five applications that had not been referred to other agencies were denied and two of them took over 90 days to complete.

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# Appendix I: Scope and Methodology

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To determine how long it takes to process State and Commerce Department licenses, we obtained and analyzed the State and Commerce Department's license data for fiscal years 1997 through 2000. The data was extracted based on the date of final action on each license. We analyzed the data to determine what types and categories of licenses took the longest to review. For Commerce Department processing, Executive Order 12981 allows for certain actions not to be counted in calculating time; however, our analyses included the actual elapsed time. We calculated time for both the State and Commerce Departments license reviews based on the receipt date and final action date of license applications. Further, our analysis of both databases is dependent on the reliability of the data provided by the State and Commerce Departments.

The State Department does not have a data dictionary that explains its data. As a substitute, we discussed key elements of the database with a State Department representative to ensure that we accurately interpreted the data. In a recent review of the Office of the Defense Trade Controls, the State Department Inspector General sampled selected elements of the database and found data entry errors. While conducting our analysis, we also found data entry inaccuracies. We worked with a State Department representative to correct some of these inaccuracies. However, some data fields did not have entries resulting in incomplete data. Because of the lack of a data dictionary and the inaccurate and incomplete data, we are not certain of the reliability of the State Department's data.

The Commerce Department has a data dictionary and built-in data edit protocols for identifying and correcting major discrepancies. Since cases are transmitted to reviewing offices and agencies via the data system, most of the data is recorded automatically. The licensing officer records all other data. During our analysis, we found some minor inaccuracies that did not adversely impact the overall reliability of the data. The Commerce Department Inspector General has reported that this data is sufficiently reliable. However, there is separate ongoing GAO work concerning the Commerce Department's Information Security Management program that may comment on the reliability of the Department's Export Control Automated Support System. As a result, we are not commenting on the reliability of the data at this time.

In both cases, however, our analysis is based on the best available data.

To understand the State and Commerce Department's process, we reviewed regulations and discussed the processes with State, Commerce, and Defense Department officials. We also held discussions with



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representatives from seven companies and industry representatives to obtain their views on the State and Commerce Department processes.

We conducted our work from June 2000 through May 2001 in accordance with generally accepted government auditing standards.

# Appendix II: Comments From the Department of State



**United States Department of State**

*Chief Financial Officer*

*Washington, D.C. 20520-7427*

MAY 16 2001

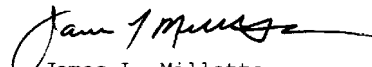
Dear Ms. Westin:

We appreciate the opportunity to review your draft report, "EXPORT CONTROLS: State and Commerce Department License Review Times are Similar," GAO-01-528, GAO Job Code 707516.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, at (202) 663-2700, or his Deputy, Michael T. Dixon, at (202) 663-2798.

Sincerely,

  
James L. Millette  
Acting

Enclosure:

As stated.

cc: GAO/ASM - Ms. Schinasi  
State/OIG - Mr. Atkins  
State/PM/DTC - Mr. Lowell

Ms. Susan S. Westin,  
Managing Director,  
International Affairs and Trade,  
U.S. General Accounting Office.

Department of State Comments on GAO Draft Report:  
EXPORT CONTROLS: State and Commerce Department  
License Review Times are Similar,  
 GAO-01-528, GAO Job Code 707516

We are pleased that the GAO report demonstrates that the U.S. Government munitions control system administered by the Department of State is relatively efficient and responsive, notwithstanding a large caseload and a small staff and budget. Moreover, staff augmentation in the Department's Office of Defense Trade Controls since the period covered by your report (FY-2000) is resulting in meaningful reductions in average processing times for munitions licenses.

Average Processing Times

<u>LICENSES</u>	<u>FY-2000</u>	<u>FY-2001 (2<sup>nd</sup> Qtr)</u>
Staffed	91 Days	65 Days
Non-staffed	24 Days	17 Days

We expect this positive trend to continue throughout FY-2001, as the expansion of the arms licensing staff is completed and new personnel gain experience in making complex arms transfer decisions consistent with U.S. national security and foreign policy interests.

# Appendix III: Comments From the Department of Commerce

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



**THE SECRETARY OF COMMERCE**  
Washington, D.C. 20230

MAY 17 2001

Ms. Katherine V. Schinasi  
Director  
Acquisition and Sourcing Management  
United States General Accounting Office  
Washington, DC 20548

Dear Ms. Schinasi:

This is in response to your request for comments on the General Accounting Office's (GAO's) draft report on "Export Controls: State and Commerce Department License Review Times Are Similar," GAO Code 707516. We appreciate the GAO conducting this review.

The comments of the Department of Commerce on the GAO's draft report are enclosed.

Warm regards,

A handwritten signature in black ink, appearing to read "D. Evans", is written over the typed name of Donald L. Evans.

Donald L. Evans

Enclosure

**U.S. Department of Commerce**  
**Comments on the General Accounting Office Draft Report**  
***Export Controls: State and Commerce Department***  
***License Review Times Are Similar***  
**GAO Code 707516**

The Department of Commerce has reviewed the General Accounting Office's (GAO's) draft report and strongly believes that the description of the number of license applications reviewed and the comparison of processing times could invite readers to draw erroneous conclusions about the export licensing work of the Department of Commerce and the Department of State. The differences in the licensing activities of the two departments -- the licensing requirements, the complexity of the license applications, and the process for reviewing the most complex and technical issues -- make the number of license applications reviewed by each department a misleading measure with which to compare the performance of the two departments.

Since the end of the Cold War, the Department of Commerce's dual-use export control system has shifted from a rigid system directed at preventing sensitive exports to the Soviet bloc to a more complex and flexible system directed at preventing sensitive exports to a wider range of countries, specific end-users, and particular end-uses and weapons capabilities. Although the number of cases reviewed annually by the Department of Commerce has decreased, the number of more complicated, resource-intensive license applications has increased significantly.

In contrast, the State Department still requires a license for virtually all defense articles, defense services, and related technology to all destinations, including our close allies.<sup>1</sup> Licenses for exports to close allies, for example, require much less review and analysis. This is not clearly reflected in the GAO's report. A more valid comparison between the licenses reviewed by State and Commerce would have been at the height of the Cold War when Commerce was reviewing over 100,000 applications a year, and about half of those were for exports to our allies. The review of those latter 50,000 license applications was performed by a staff of nine licensing officers.

It should also be noted that the Commerce Department's licensing officers conduct the technical analysis needed to review all license applications. In contrast, the State Department uses Defense Department experts for the technical analysis of its license applications. The number of Defense Department personnel performing technical analysis on Department of State license applications is not included in the total number of State licensing officers in the GAO's report.

Commerce objects to the fact that the GAO references Executive Order license processing time lines and restrictions throughout its report, but has based its entire statistical review on processing times outside the parameters of the Executive Order. Under Executive Order 12981,

<sup>1</sup> (GAO Report, Page 21): "State Department officials explained that the lack of variation in processing time for applications to export to NATO versus non-NATO countries can be explained by the fact that non-NATO countries to which we export munitions list items are generally our allies, for example Japan or Australia."

See comment 1.

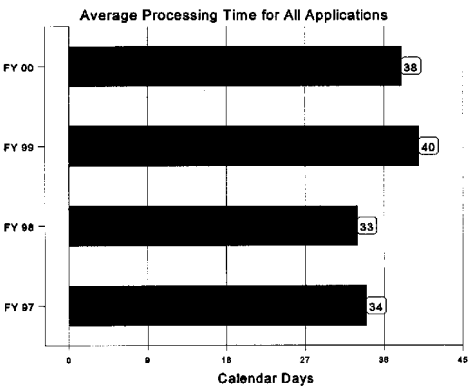
processing times are calculated to exclude those intervals when, at the agreement of the applicant, an application is placed on Hold Without Action (HWA). An application is placed on HWA after Commerce has determined that additional information is required from the exporter to properly analyze the transaction. During this time, no action is taken on the application by Commerce licensing officers. The Department of Commerce has rigid criteria for placing an export license application on HWA and strict requirements for the number of days a case can remain on HWA. Once an applicant provides the information necessary to process the license application, the application is removed from HWA and the review process resumes.

We were unable to validate the Commerce license data provided in the GAO report. Commerce would have to include HWA times in the calculation of the average processing time for license applications in order to analyze the GAO data. This was not feasible given that the GAO requested comments within 15 days of issuing the draft report. Our comments below are based on available licensing data.

**The Department of Commerce requests that the GAO report be revised to reflect the following points.**

**Page 2**

The GAO report should include the average Commerce license processing times using Executive Order parameters and include the factors unique to Commerce that influence Commerce license processing times.



The following chart provides the average processing time from FY 1997 through FY 2000 under Executive Order parameters. The results are similar to the GAO report. The data reflect an increase in license processing times during FY 1997 to FY 1999, with a small decrease in processing times in FY 2000.

3

The GAO report should clearly outline the factors that influence Commerce license processing times, which include, but are not limited to, the following:

- the changes in volume and/or types of license applications reviewed;
- the loss of experienced analysts;
- increases in processing times of referral agencies;
- changing global conditions;
- unanticipated workload of the agency -- during FY 1999, BXA participated in over 125 Congressional, GAO, and IG investigations, Freedom of Information Act inquiries, and related court-order document searches, which severely impeded effective utilization of our resources; and
- license applications received in FY 1999 increased 18 percent from the previous year.

The GAO report should also note that sanctions imposed against India and Pakistan resulted in higher processing times and a rise in the denial rate. Prior to FY 1999, the license application denial rate was less than three percent. Rejection of EAR99 items to India in FY 1999 increased the denial rate to nine percent. In addition, the removal of 51 Indian entities from the list of organizations that have been determined to be contributors to the proliferation of weapons of mass destruction resulted in the decline of rejected applications to four percent in FY 2000. This decrease in rejected applications resulted in the decrease in license processing times in FY 2000.

The second paragraph should also state: "The Department of Commerce licensing officers are also responsible for responding to inquiries from other agencies and from the Congress."

**Page 3:**

The GAO report does not adequately reflect the differences in the license review process of the two departments.

Paragraph one: The most relevant comparison of data in the GAO report is between the licenses referred by the two Departments and those not requiring referral. Commerce applications that were referred took an average of 43 days, while the average processing time for non-referred applications was 15 days. State took an average of 91 days for referred applications and 23 days for non-referred applications.

What the GAO report does not adequately emphasize is that Commerce's licensing officers conduct a full technical analysis on all license applications (both referred and non-referred). The 83 percent of cases Commerce referred in FY 2000 underwent a comprehensive technical analysis prior to referral, and were referred to other agencies with a recommendation of final disposition and suggested conditions. In comparison, only one-third of the State Department's applications required technical analysis. State relies on other agencies to conduct the technical analysis required on applications under their jurisdiction.

See comment 2.

Now on p. 3.

See comment 3.

Now on pp. 3 and 4.

Now on p. 3.

See comment 1.

4

Now on p. 4.

Paragraph 4: The sentence “Furthermore, many of the license applications received by the Commerce Department are for licenses to export to countries that are not our allies and may in some cases be considered countries of concern,” is an understatement. The GAO report should reflect that because items licensed by Commerce are considered “dual use” (they can be used in both civil and military applications), applications are subjected to a variety of reviews to determine suitability of the country of destination, the end-use, and the end-user. This analysis is even more complex and time consuming when the end user is located in a country of concern, which is often the case. As an example, in FY 2000, 23 percent of the 11,039 completed license applications were for China and India. The review time for applications for China was 14 days for non-referred applications, and 77 days for the 94 percent of China cases that were referred. The review time for India was 33 days for non-referred applications and 59 days for the 74 percent that were referred.

**Page 9:**

The Department of Defense implemented an internal procedure to complete its review of State licenses in 30 days. The GAO report should note that this is the same amount of time allowed for its review of Commerce licenses, as specified by Executive Order.

Now on p. 28.

**Page 30:**

The flowchart in the GAO report does not reflect the 17 percent of closed cases that are completed without referral. To correct this, an arrow and additional box should be placed under “Licensing officer review”.

Narrative inside the box:

Final Action

Non-referred applications  
(17 percent)

See comment 4.

Now on p. 29.

**Page 31:**

The GAO report does not adequately reflect the differences in the license review process of the two departments. Coupled with the inclusion of HWA times in the GAO data, the conclusions reported in the GAO report are misleading.

In comparison to the detailed report on the process a State Department licensing officer undertakes to review an application, the GAO report says little about the Commerce licensing process. Commerce requests that the GAO report be revised to include the following language: “Once an application is entered into the data system, it is considered “registered” and the timing mechanism mandated by the Executive Order is activated. Within nine days of the registration date, the licensing officer must evaluate the proposed transaction in relationship to the Export Administration Regulations, interagency referral policies, Delegations of Authority, Federal

See comment 3.



5

See comment 3.

Register announcements, agency policy guidance, and end-user/use suitability checks. Licensing officers must also recognize critical factors that define sensitive export transactions posing national security or proliferation concerns or cases controlled for more than one reason that would require additional intra/inter-agency referrals. Once a Commerce position has been determined, applicable conditions are suggested by the Commerce Licensing Officer on those applications recommended for approval and the case is either referred for interagency review or approved after a final Commerce review. In FY 2000, the Department of Commerce referred 83 percent of the completed cases to other agencies for review. The remaining 17 percent could be acted on without referral to other agencies and were approved, rejected, or returned to the applicant without action either for additional information or because a license was not required.”

Paragraph one: Capitalize ‘Export Administration Regulations.’ In the last line, add the phrase “In most cases, . . .” to the beginning of the sentence.

Paragraph two: Third and last line, “If the licensing officer recommends approval. . .” should be changed to say “The license is generally sent . . .” because it is Commerce policy to refer all cases interagency, regardless of whether the recommendation is denial or approval. For those licenses that are not referred, they may be returned without action or we may have a delegation of authority from the other agencies so that referral is not necessary.

See comment 5.

Paragraph three: Cases are pulled back at the end of 30 days if other agencies do not take a position. However, this requirement does not extend to the intelligence community. Accordingly, cases can be on hold indefinitely, awaiting relevant intelligence information, with Commerce having no means of pulling it back. This contributes to extended processing times.

Paragraph four: It is incorrect for the GAO report to include the time when cases are on hold without action (HWA). The Executive Order explicitly states in Section 4 that “[t]he time that may elapse between the date the information is requested. . . and the date . . . received *shall not be counted in calculating the time periods prescribed in this order*” (italics added). GAO’s assessment is inaccurate if it does not reflect the Executive Order requirements under which Commerce must operate. In determining the Commerce Department’s processing times, the GAO report should not include the number of days that license applications are held without action pending the receipt of information from the exporter. The HWA processing delay is not the result of inaction on the part of the licensing officer; an HWA is a courtesy extended to the exporter to permit him/her to complete the application and bring it to a successful conclusion in a timely manner. The alternative to an HWA is to return the application with a request for additional information, forcing the applicant to start the application process over again. Although the latter action would decrease aggregate license processing time for Commerce, it would increase the likelihood that the export sale will be lost due to a processing delay. It is misleading to compare Commerce processing times with those of the State Department when State does not extend this option to its export applicants. Further, processing times should be defined in workdays, not calendar days that include weekends and Federal holidays when application processing is suspended.

See comment 6.

Now on p. 31.

**Page 33:**

The GAO report should note that one of the major reasons for the increase in license application processing times from FY 1997 is the length of time ascribed to application review by the intelligence community. Although embargoes and similar abrupt changes in export control policy can briefly increase processing time, it is primarily the ever-lengthening response time from the intelligence community, which is beyond the control of Commerce licensing officials, that has brought about this increase in application processing time.

The license processing times as calculated under Executive Order parameters are:

Fiscal Year	Number of Completed Applications	Average Processing Times		
		All Applications	Referred	Non-referred
1997	10,550	34 days	36 days	11 days
1999	12,598	40 days	43 days	20 days
2000	11,039	38 days	43 days	15 days

Now on p. 33.

**Page 35:**

The GAO report states the number of applications requiring more than 60 days review in FY 1997 and FY 2000. Again, Executive Order time frames were not used.

Under Executive Order time frames, 949 applications (9 percent) of the 10,550 applications reviewed in FY 1997 required longer than 60 days to review. In FY 2000, 1,853 (17 percent) of the 11,039 applications reviewed required longer than 60 days. These extended time periods were due to several factors, including other agencies' legitimate election of the full 30 day review process as outlined in the Executive Order. This also reflects the practice among reviewing agencies of failing to make a recommendation within the required 30 day period in order to give themselves additional review time in the interagency dispute resolution process and periodic delays in obtaining necessary intelligence information.

As stated in the GAO report, agencies have 30 days to register a recommendation on a license application before the system pulls the application back to Commerce. When an agency fails to recommend a position, the license application is subject to the interagency review process. Thus, a "no action" response ensures additional review time for the agency.

See comment 7.

7

The application is escalated to the first level of dispute resolution -- the Operating Committee (OC). The OC is comprised of representatives of the Departments of Defense, Energy, State, and Commerce. Although the OC meets weekly to discuss pending export license applications, it normally takes several weeks before a case is resolved because of the number of cases on the docket at any given time. Further, members of the OC often raise new concerns which need to be evaluated and discussed before a final decision can be reached. Any reviewing agency may appeal the decision of the Operating Committee Chair by escalating the case to the Chair of the Advisory Committee on Export Policy (ACEP). The ACEP, an Assistant-Secretary level Committee, is chaired by the Assistant Secretary for Export Administration. The Departments of Defense, Energy, State, and Commerce vote at the ACEP.

Although the number of cases escalated to the OC and ACEP are comparable for both fiscal years, in the comparison of FY 1997 and FY 2000, there is a significant increase in processing times:

1997 OC reviewed 720 cases with an average processing time of 26 days  
2000 OC reviewed 647 cases with an average processing time of 32 days

1997 ACEP reviewed 36 cases with an average processing time of 33 days  
2000 ACEP reviewed 34 cases with an average processing time of 80 days.

End use checks by the intelligence community can also delay the license approval process. Commerce, in addition to performing its own end user checks, refers certain types of applications to the intelligence community. Their response is often received after the 30 day review period.<sup>2</sup>

Providing exporters the ability to participate fully in the license application review process also has a significant impact on the processing time. For example, exporters have appeal rights on all license denials. This process can add 65 days to the processing times. In FY 2000, we rejected 398 applications.

Another factor that involves fewer cases, but extremely high processing times, is the instance in which an exporter insists upon extended processing times in an effort for the regulatory agencies to formulate new policies regarding the export of sensitive products. In FY 2000, we closed out several cases with an average processing time of over 350 days.

**Page 37:**

Paragraph one should note that the time frame referenced is FY 2000.

<sup>2</sup> The intelligence community is not affected by the jurisdiction of the Executive Order.

Now on p. 35.

8

Paragraph two: As stated in other sections of this response, we are unable to verify that the data submitted includes HWA times. We are also unable to reply to "median time."

Under the Executive Order, the average processing times for non-referred applications was 15 days. The average processing time for referred applications was 43 days.

The GAO report should note that the reason the referral percentage is not 100 percent is because some agencies provide delegations of authority for certain categories of items on the Commerce Control List.

**Page 39:**

Paragraph one: Items that do not fall under one of the ten Commerce Control List (CCL) categories but are subject to the EAR are designated as "EAR99," not "other".

Paragraph two: Although there was insufficient time to conduct a thorough review of the processing times for specific commodities, it should be noted that applications with lower processing times are usually for those countries that are considered our allies. The average processing times for these commodities are quickly elevated when such commodities are processed for countries of concern.

**Page 41:**

Commerce agrees that applications reviewed for NATO countries are completed faster than applications for exports to non-NATO countries, especially when the non-NATO countries include countries of concern, such as Syria, India, or China. In FY 2000, only 16 percent of the 11,039 applications processed by Commerce were reviewed for NATO countries. By comparison, 11 percent of applications reviewed during the same time period were for China alone.

**Page 43:**

Paragraph one: Commerce is confused by GAO's statement that "Nine countries were listed as the destination on over 300 license applications." The nine countries identified by GAO accounted for 5,685 applications, with China having the highest number, 1,219. As stated in the GAO report, the total for these nine countries represented 52 percent of all applications completed in fiscal year 2000. Over half of those applications (56 percent) were for China, India, and Israel. We recommend rewording the first sentence to read, "Commerce received over 300 license applications for each of nine countries."

In regards to processing times for Canada, 6 of the 582 completed applications for Canada were referred, with an average processing time of 84 days. The remaining 576 cases were completed without referral with an average processing time of 7 days.

Now on p. 37.

See comment 8.

Now on p. 39.

Now on p. 41.

See comment 3.

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Paragraph three: The GAO report should note that the majority of the applications approved for Cuba were for humanitarian items, including medical supplies, medical equipment, or food items.

**Page 45:**

Paragraph two: The additional review time required on denied applications is explained on Page 35.

The GAO report should clarify that the entire universe of standard conditions is 48; there are not 48 standard conditions on approved licenses.

Now on p. 43.

See comment 3.

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The following are GAO's comments on the Department of Commerce's letter dated May 17, 2001.

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## GAO Comments

1. Defense Department officials told us that their engineers perform similar technical analysis on both State and Commerce license applications.
2. This information is already included in the report.
3. Text revised.
4. A footnote was added for clarification.
5. Obtaining intelligence information is an important part of the licensing process and adds time.
6. Commerce is not correct. State and Defense Department officials told us that both State licensing officers and Defense license reviewers hold munitions license applications while awaiting additional information from the applicant.
7. The Executive Order and Export Administration Regulations state that agencies that fail to make a recommendation within the required 30-day period are "...deemed to have no objection to the..." Commerce Department's final decision regarding the license application in question. Additional time occurs when agencies disagree on the final disposition for a license application and not when they fail to make a recommendation.
8. We defined "EAR99" items as "other" because readers of this report may not be familiar with the Export Control Classification Number or Commerce Control List classification systems.

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